

Downtown Commission Meeting  
Minutes of June 10, 2011  
8:30 a.m.  
1st Floor North Conference Room - City Hall

**Present:** Chairman Dwight Butner, Presiding; Vice-Chair Kitty Love, Councilman Jan Davis, Mr. Guadalupe Chavarria (left meeting at 10:10 a.m.), Mr. Byron Greiner, Ms. Rebecca Hecht, Mr. Bruce Hazzard, Mr. Michael McDonough, Mr. Matthew Sprouse and Mr. Jimi Rentz

**Absent:** Ms. Pamela Myers

Chairman Butner called the meeting to order at 8:30 p.m. and informed the audience of the public hearing process.

**Administrative**

- ? Mr. Hazzard moved to approve the minutes of the May 13, 2011, meeting. This motion was seconded by Mr. Sprouse and carried unanimously.

**Updates**

**Downtown Association**

Mr. Greiner said that next week will be the second series of Downtown After Five and they had their second highest attendance at the Lexington location for their May event.

**Downtown Task Force**

Urban Planner Alan Glines updated the Commission on the 51 Biltmore Avenue Project; delay of the Pack Square Pavilion restrooms; an exemption from the Street Closure Policy for Special Events for the Montford Street Festival; Moogfest is scheduled for Halloween weekend; and Lexington Avenue Arts & Fun Festival will be applying for a two-day permit around Labor Day.

Urban Planner Jessica Bernstein noted that from a public safety issue, the Street Closure Policy will be revised to state that Spruce Street will always be a part of the closure and that N. Market Street will be the street available to keep open.

**Downtown Master Plan Implementation**

- ? Transportation & Parking Subcommittee - Mr. Rentz said they have received and educated the public on bike lockers. From Council direction, they will be looking at a shuttle service downtown. In response to Chairman Butner, Councilman Davis said that Council has not budgeted funds for a shuttle service this fiscal year; however, it may be possible for the Transit Fund to be amended. Councilman Davis also noted that they received a good response from a survey sent out regarding transit options downtown.
- ? Arts & Culture Subcommittee - Ms. Love briefly updated the Commission on their work and responded to Chairman Butner regarding possible financing sources.
- ? Downtown Management Subcommittee - Chairman Butner said they have gone public with the plans for Strategy 7, which he explained was the self-imposed taxing district which allows for services above and beyond base-line City services for downtown. They are discussing this with downtown property owners.

## **Design Review Subcommittee**

### **Streetscape Plan Update**

Mr. Sprouse said they started their Streetscape Plan in earnest. To begin, Ms. Bernstein provided the Commission with a streetscape inventory that they have the capability of locating through the GIS system. The Planning Department has an intern who will be helping them with the inventory.

Mr. Hazzard noted that any empty tree grates will be planted with trees in the fall or early winter. The Subcommittee felt it was advantageous to meet with representatives from the Public Works Department and the City Arborist to coordinate schedules. There is also a historic document for streetscape improvements downtown which they hope to make as efficient and user friendly as possible.

When Ms. Hecht asked if there was a way to address the concern of loose bricks on Lexington Avenue, Mr. Hazzard said that is one of the reasons why they are meeting with City representatives who have identified target areas that need to be monitored or repaired.

Chairman Butner said that when the Commission adopted the new design review guidelines, they talked about modeling them against some of our buildings proposed in the past. He felt it might be appropriate to get a report on that in the future.

## **Mobile Food Vending Subcommittee**

Chairman Butner, downtown restaurant owner, said that he had discussed his possible conflict of interest with City Attorney Oast regarding the mobile food vendors issue. It was his opinion, by a memorandum circulated to all Downtown Commission members, that "the food truck issue affects all downtown (and outside of downtown) restaurants in the same way; it does not affect your business specifically. It is the same as a zoning ordinance of general applicability. While you may have an opinion based on your operation of a restaurant, I do not think that you have a conflict that prohibits you from voting on this issue. As you and I also discussed, I think that you can turn the chairmanship of the DTC meeting over to the Vice Chair or another member while you are engaged in active debate. The Council's rules specifically provide for this. While the DTC rules do not specifically so provide, I do not think it is prohibited from doing so. I would suggest that this be done pursuant to a vote, and that it be limited to a single issue."

At Chairman Butner's request, Mr. McDonough moved to have Vice-Chair Love conduct the active debate on this issue. This motion was seconded by Mr. Greiner and carried unanimously.

Mr. Glines also said that a question arose on what it would take for the sites to be used for mobile vendor, since staff's recommendation is that the vending doesn't roam or operate from a public parking space at the end of a sidewalk. It is on private property and it is a contract between the private property owner and the trucks themselves. He went through a small analysis of some potentially likely spots downtown and what might be required to bring them into some kind of compliance. They were looking at sites that had space and would be on corridors where there would be enough traffic to warrant a mobile food vendor. Sites staff identified were (1) Expert Tire at 215 Patton Avenue; (2) 204 Patton Avenue (across the street from Expert Tire); (3) 124 Patton Avenue (across from Federal Building); (4) existing parking lot on Coxe Avenue behind First Citizens Bank; (5) Buncombe County parcel on the bottom of Hilliard and Coxe Avenue; (6) Asheville Savings Bank parking lot; (7) McGuire, Wood & Bissette parking lot on Patton Avenue; (8) parking lot on Broadway next to Bruisin Ales next to the Masonic Lodge; and (9) site across the street from the Pioneer Building at the corner of Broadway and Starnes.

Mr. Glines provided the Commission with some information provided by Planning & Development Director Judy Daniel regarding mobile vending operations in Madison, Wisconsin. They have about 45 pull-behind small mobile carts (the truck drops off the cart and parks somewhere else for the day); they require that they operate on the public right-of-way (very wide sidewalks); carts are inspected by their Health Department; the carts plug into City-provided outlets in the light poles; annual review by a group that gives points to the carts – highest points gets first pick on locations; 1/3 are from an out-branch of a restaurant; enforcement by City staff; and evening market is not very successful.

Chairman Butner said that one of his main concerns is drawing the distinction between parts and segments in the downtown historic core. He would like to know from the cities we have used for comparison, or any other comparable cities, the population of the city and what regulations they have in their historic district, if they have one.

Mr. Glines said that the population of Austin, Texas, is approximately 800,000 people and they have 1,400 trucks. They don't allow them to roam and they require them to operate from a private lot. They consider them to be a temporary use and so there are no site requirements. Also, the trucks do not have to leave each day. They allow temporary hook-ups to sewer and water.

Regarding generators, Mr. Glines said reviewed the following: (1) if generators are attached in a manner designed as part of the vehicle, they are allowed; (2) some vehicles manufactured for mobile food sales provide a place for a generator; (3) no generators may sit on the ground beside the vehicle; (4) noise levels of generators have to be considered and 60 decibels may be a good number of certainly below 70 decibels based on noise charts (prices for generators below 70 decibels run approximately \$3,000); (5) the use of generators may require greater spacing between trucks for exhaust and air intake; (6) the ordinance may consider completely prohibiting generators; and (7) some cities limit the use of generators within so many feet of a residential zone or a building with residential units in it. Mr. Hazzard also noted that Austin's noise ordinance is a generalized ordinance and is not specific to outdoor vendors of any kind.

In response to Ms. Hecht, Mr. Glines said that Asheville's noise ordinance is complaint driven.

Regarding in-ground electrical power sources, Mr. Glines said that (1) electrical pedestal may be approved for servicing the truck following a building permit procedure; (2) the pedestal is a permanent improvement for the site; (3) the running of extension cords would be limited on-site; and (4) there could be more than a single pedestal on a site and would be shown on a site plan.

Ms. Bernstein reviewed the following memorandum prepared by Assistant Planning & Development Director Shannon Tuch (who is out of town) regarding enforcement:

"At the May 13, 2011 DTC meeting, I offered some basic information about Mobile Food Vending (MFV) enforcement and was asked to return to the June 10<sup>th</sup> meeting with some additional information. Unfortunately, I will be out of town and won't be able to attend this meeting so have prepared this memo for your reference. Alan Glines, Jessica Bernstein, and Shannon Morgan will attend to lead the discussion and answer questions.

"Generally speaking, illegal or unpermitted MFV can be tough to comprehensively enforce because this activity violates more than one ordinance. Certainly the zoning ordinance is violated because mobile food vending downtown is a prohibited activity, but there are also other police/nuisance ordinances regulating the blocking of alleys or selling merchandise from a vehicle, etc. that can also come into play.

"My familiarity with enforcing the non-zoning ordinances is more limited, however, in speaking with APD reps I got the impression that it was unlikely and unrealistic to think that APD could prioritize checking up on these uses - they just simply have much higher priorities and demands on their time and that this cannot be accommodated. That would leave the burden of regulating these uses through zoning and there are some limitations regarding our normal zoning enforcement actions.

#### "Late night enforcement

"For our office to enforce late night mobile food vending we must first catch the vendors in the act which would require our assigning an officer to patrol during late night/early morning hours. Our enforcement officers are hourly employees with normal work hours so a special schedule would have to be carefully considered and coordinated - overtime would also have to be considered which is not included in our budget for the upcoming year. I also have some safety concerns about a zoning officer patrolling downtown alone. These are unarmed **zoning** enforcement officers with basic skills and training in confrontations or other potentially dangerous or hazardous situations.

#### "Enforcing mobile activities

"Our ordinance requires that with typical zoning enforcement we must first catch the perpetrator in the act and are then required to offer them a reasonable period of time to correct the violation. Citations can only be issued if the perpetrator/violator fails to correct the situation, and a new \$100 fine is assessed for every day the violation remains unresolved. In the case of MFV, the time afforded to correct the violation would be small, something like 15 minutes, just long enough to pack up and leave the site. Once they leave the area, they have "corrected" the violation and the matter is resolved. To be able to serve them an actual citation with fines would mean we would have to catch them a second time, at which point they are served a single \$100 fine which is also stopped once they leave the site. In other words, we'd have to catch them twice before we could fine them at all and couldn't accrue any additional fines unless caught in the act each subsequent time. It is possible to consider other types of fine structures such as an immediate one-time fine, or escalating fines for repeat offenders but, this will require an ordinance amendment and there are some other practical concerns regarding our ability to collect on these fines.

Other ideas such as towing, or boot-ing have been mentioned but these enforcement options are limited to parking violations and there is also a practical difficulty to applying a boot or hooking up a tow to a vehicle that could simply drive off at the first sight of an officer.

#### "Other key points

"Despite these challenges, I think it is very important to note a few key points. First of all, these challenges are not limited to only MFV - they exist for a wide variety of issues and we've been dealing with them for a while and, those individuals who are bent on violating the ordinance are going to continue to do so despite our best efforts. Secondly, I'm not sure that we can conclude that providing new options for mobile food vending would necessarily increase enforcement issues. Presently, vending downtown is illegal but we still have an occasional problem. If we provide more options that would make this kind of activity legal, then I think it may be possible that the illegal activity could be corrected through proper permitting. Additionally, we will have more "eyes on the street" with the additional vendors that it could potentially help to self-regulate. Another consideration is that technology and options for enforcement continue to advance. Currently, there is a discussion occurring in the zoning code enforcement circles regarding an option where time-stamped photos taken by any smart phone could be sent to an enforcement group and used to document and initiate enforcement actions and fines. Given limited resources devoted to zoning (or non-safety related) enforcement, this is something that

our office would be very interested in and could be used to help monitor late night and weekend activities.

"To summarize, while there are some very practical concerns related to the enforcement of MFV (and other activities), it is unclear just how unique or applicable these concerns are or how problematic the enforcement of MFV will be. Uses such as these tend to self-regulate and may not necessarily (dramatically) increase the need for additional enforcement resources. Permit fees being considered are relatively low (\$125 for the site, \$250 for each truck) and would not expect to necessarily recover all costs associated (review, permitting, inspection, enforcement) with these activities."

Regarding enforcement, Mr. Greiner said that we have 8 police officers every night in the Central Business District for coverage. He also noted that there are many cities that have enforcement officers that work weekends and nights only. He felt there are ways to enforce the ordinance.

Chairman Butner felt that the enforcement is an accountability issue. As an independent restaurant owner, he is subject to an unannounced health inspection about every quarter. A food truck is on wheels. We need to be able to tie the mobile vendor to a Parcel Identification Number for some accountability in terms of any fine assignments, or so there can be random health inspections in the same manner as everyone else.

Upon inquiry of Vice-Chair Love, Ms. Bernstein said that this meeting is for discussion only and at the July meeting staff will ask the Commission to either direct staff to move forward with an ordinance or stop movement in this direction. If staff is directed to move forward, a draft ordinance would come before the Commission in August.

Ms. Suzy Phillips, food truck vendor, said that mobile food carts do receive pop-up inspection visits. They cannot operate unless the Health Department makes sure that everything is operating just like a restaurant on wheels.

Ms. Marnie Graves purchased a food truck last week. She is an architect for the past 10 years working in Asheville and has a lot of experience in site plan development. She offered her services to the food truck community and would be happy to work with staff on an ordinance.

Mr. Tim Peck felt that the food truck business is seasonal and asked the Commission to expedite the ordinance. He asked to be notified of the next Mobile Food Vending Subcommittee will next meet.

Ms. Elizabeth Foley, Manager of the Chocolate Fetish, expressed concern about mobile food trucks in the Central Business District; however, she supported them outside the Central Business District. Downtown businesses pay a lot of taxes and fees and have a lot of vested interest in downtown. Downtown businesses shovel sidewalks in the winter (among other things) and wondered what kind of accountability mobile food trucks would have for those types of things.

Mr. Gabriel Schaffer envisioned a similar organization to the Asheville Independent Restaurant Association (AIR) would be formed after the ordinance is adopted for mobile food trucks. He felt the organization could monitor each other and self regulate other mobile food vendors. He also pointed that there are also very reputable restaurant owners downtown that have supported mobile food vendors, by either being customers or vocal supporters.

Mr. Jeremy Hardcastle, owner of Hardcastle Hotdogs, asked the Commission to also look at reviewing the ordinance regarding food vending trucks in the West Asheville Central Business District.

Mr. Joe Minicozzi, Executive Director of the Asheville Downtown Association, provided the Commission with 664 survey results regarding mobile food trucks. One of the questions was whether mobile food vending would be a positive impact on downtown. The overall result was 75% positive. Open comment on allowable vending types in downtown resulted in 38% for food vending only; 31% for allowing all kinds of vending; 18% no vending; 6% limitations on vending; and 6% being unsure. The Association has not taken a position on this issue, but the Issues Committee validated the following recommendations: (1) no mobile food vending be allowed on public streets; (2) any property that should utilize mobile food vending shall be brought to the City's parking lot landscaping standard; (3) we suggest a required and measurable decibel limit (per unit and/or combined for the site) for generators, as measured from the adjacent sidewalk or habitable neighboring structure, whichever is closest; (4) require on-site trash and recycling; (5) we support the "no Styrofoam" recommendation; (6) a limit on the size of truck (we suggest "no mobile food vending vehicle shall be more than two axles and trailers no more than one axle"); (7) the state requirements for health inspection must be met and enforced; and (8) we encourage permitted, inspected, and approved electrification of site as part of the landscaping requirements, where possible, to help mitigate the generator issue.

At the request of Mr. Hazzard, Mr. Glines said that he would obtain the entire survey results from Mr. Minicozzi and provide it to all Commission members.

Mr. Nate Kelly said he recently purchased a mobile food truck. He felt that if someone wants to go out for a nice dinner they would go to a restaurant, but if someone wanted a quick bite, they would stop at a food truck. He felt the competition would not be as intense as some might think.

Mr. Anthony Cerrato, owner of Fiore's Ristorante Toscana, said that the enforcement issue is for the safety of everyone, including the mobile vending trucks. He hoped that everyone respects each other because we are all entrepreneurs.

Mr. Anoop Krishnan, owner of Mela and Boca Restaurants, could not support the mobile food vending. He stated the following concerns: whether there would be limits on the number allowed, how big will the logos be on the side of the food trucks, will chain restaurants be allowed to have food trucks, how can the City enforce chain restaurants operating a food truck under a different name; will there be a waiting list for food trucks, what kind of food will be allowed, will drinks be allowed, and will the trucks be allowed to sell T-shirts. He spent \$350-400,000 to open his restaurant whereas a food truck costs between \$60-80,000. Restaurants also get a grease trap inspection at least twice a year and hood inspections once a year. Restaurants pay a lot of permit fees. He also employs approximately 25-30 people at Mela. If food trucks are allowed, he would have to open a food truck because it's all about competition. He noted that Austin, Texas, has a population of 800,000 and Madison, Wisconsin, has 300,000. He said Asheville is only 70,000 people. Allowing food trucks may also hamper major restaurant restoration in downtown.

Ms. Suzanne Noble felt people are not trying to stop brick and mortar restaurants because there are too many restaurants. She supported mobile food vending noting that some mobile food vendors can't afford to have a building.

Mr. Rentz felt that of all the possible sites mentioned there are only two that might be good money-making sites. If he were a mobile food vendor, he would be interested in the French Broad Co-op site between 1-3 a.m.

Chairman Butner felt this issue continues to be flamed in a competition matter. He didn't think anyone in the restaurant business is afraid of competition. Personally, this downtown historic district, which we go to great lengths to protect and guide development, has put in place a restriction of this type of vending for over 20 years. It was done simply because we wanted the historic buildings in downtown to be full and operating with tenants. It was a revitalization and preservation issue. Personally, if the ordinance passes, he would like to operate a food truck,

and have his restaurant logo on the side of it. The main issue is a public policy issue about whether or not we are going to keep our historic buildings filled with tenants. He could not understand how allowing mobile food vending inside the historic core, with all the buildings we are trying to keep filled with tenants, is going to put one more tenant in a building. He feels that if the Commission is going to change this, there needs to be better justification than it's the latest trend. This needs to be done in a way that compliments what we have historically done. He is against this at this point because he doesn't see a way that it puts another tenant in a single building downtown.

Ms. Celeste Gray, Fresh Asheville, understand both sides of the downtown restaurants and the food truck vendors. Personally, she is excited about healthy alternatives to fast food as they also help support farmers.

Mr. Chavarria felt we need to definitely consider prohibiting national chains and to place a limit on the amount of food vending trucks which would be allowed. He appreciated the public comment.

Mr. Hazzard felt that we can't restrict ownership or type of food. A lot is driven by location, quality of food and level of service. That is the same for any kind of food business. He felt there are ways, through permitting and how locations are established, to begin to tell us how many potential possibilities there may or may not be within the Central Business District (CBD). A portion of the CBD is the historic core and we need to determine whether there are different regulations within that historic core. Some cities have approved an ordinance limiting the number of permits for the initial two years because there are so many questions, and then have a re-evaluation to expand or modify the ordinance. Personally, he would like (1) for staff to respond to the questions asked; and (2) working from the memorandum on the framework of the regulatory side, have the Commission determine which of those things they agree with or which ones they still have questions about.

Mr. McDonough asked (1) for a map of how the Downtown Master Plan identifies the historic core; and (2) what is the response from other jurisdictions regarding setbacks from existing restaurants. Mr. Glines said we do have some rules regarding separation, but if you allowed one and a building was later built, that would be a grandfathered use. However, you could limit other ones from being so close. Ms. Bernstein also said that we have such a small number of sites downtown to start out with, staff didn't think we needed separation requirements in place at this time. The Commission can certainly direct staff otherwise.

Chairman Butner noted that mobile food vendors are allowed in every other place in this community on a temporary basis except in the Central Business Districts. His main issue is the main economic driver in our community is our historic core. To suggest that food trucks are going to fail because they are not allowed into the historic core of downtown Asheville is ludicrous.

Ms. Phillips questioned why new buildings are being constructed if there are so many historical buildings empty. We should concentrate on renovating those buildings.

In response to Ms. Hecht, Ms. Phillips if she were able to operate her food cart in the historic core and became wealthy enough to open a restaurant in the historic core, she would. She would love to put her food cart in a parking lot at least 200 feet away from a restaurant. She said there are several parking lots in the core that she would like to locate her food cart. She suggested a 10 food cart limit and allowing only new entrepreneurs having the opportunity to do so first. She noted that she is also starting an Asheville Street Foods Coalition similar to AIR. She employs five people and has been in business for two months.

Mr. Michel Bouchon, a founding member of AIR, said that at the beginning of discussions the ordinance said there was no limit on the number of food trucks. He said there is already one

illegal food truck downtown and wondered how we can enforce more when we can't even enforce that one. He suggested a pilot program of a limited number of trucks with local folks.

A representative from AIR said that they are trying to obtain information and educate the public.

Mr. Schaffer (spouse of Ms. Suzy Phillips) publicly apologized to anyone he has offended as long as they see progress with this ordinance. He felt like the opposition had certain power plays that they did not have access to because of their financial positions. He does have social networking and a community behind him. His emotions clouded his judgment and apologized to those he offended. He does want to see the policy proceed.

Councilman Davis felt that the established restaurateurs and food truck vendors do respect each others ability to do business. As one voice of City Council, he felt certain that City Council does not want to stand in the way of people being successful. He said the Downtown Commission is an advisory board and they will come up with a recommendation that will move a draft ordinance forward to City Council. However, this is a time consuming process and felt that staff is handicapped in that they deal mainly with zoning issues. We are now moving into some permitting and enforcement aspects that Planning staff doesn't quite the knowledge of. We cannot craft an ordinance that does not consider those things. He felt it would be appropriate to establish a small subcommittee with representation at the table to help staff craft the ordinance. At best, if we establish this small subcommittee, as we have with many in the past, they would meet every couple of weeks until all factors are considered – recognizing that what is crafted will not be the ultimate law. The draft ordinance would be vetting at the Downtown Commission, the City Council Planning & Economic Development Committee, the Planning & Zoning Commission and then onto City Council. At the very minimum, it will be a 3-4 month process. We must use the time wisely and recognizing that everyone has rights, then Council will do a good job of making a determination of what that law should look like. A cool head and recognition that we are all in this together is very important.

Vice-Chair Love said a lot of good points have been brought up. She too felt a small subcommittee be established to iron out some of the following points that should be considered: enforcement; site compliance with landscaping and safety; aesthetics of the actual mobile food carts; safety of the mobile food carts; permit process and whether there is a committee that looks at a point system similar to other cities; generators vs. electric and the affordability of quiet ones and how that affects the cost of the permit and viability of the business; limiting number of food carts; should they be allowed in the historic core; separation requirements from restaurants; whether national chains should be allowed; and size of the food carts.

Ms. Hecht and Mr. Rentz said that the existing Subcommittee met multiple times with stakeholders on both sides have addressed all the items mentioned by Vice-Chair Love. However, as the Subcommittee came back with their recommendations, those items continue to be debated. Mr. Hazzard said those recommendations are outlined in the main memorandum prepared by City staff of the framework of an ordinance.

Ms. Hecht said that as far as enforcement, both sides have a lot of concerns. It does; however, seem that enforcement is a greater issue with many things downtown – not just food trucks.

It was the consensus of the Committee that the Mobile Food Vending Subcommittee meet again and with staff assistance craft a draft ordinance to be reviewed by the Commission at their August meeting, along with a supplemental report that touches on and addresses points raised.



Vice-Chair Love moved to have Chairman Butner continue chairmanship of the meeting since active debate on the mobile food vending issue is complete. This motion was seconded by Mr. Rentz and carried unanimously.

### **New Business – Commissioner Initiated Topics**

#### **Outdoor (Art) Market**

In response to Vice-Chair Love, Ms. Bernstein said that the sale of goods in an outdoor market in the Central Business District is prohibited. Ms. Bernstein said they can obtain a temporary use special event permit.

#### **Pushcart Vendor Discussion**

Mr. Shannon Morgan, Development Review Specialist for the Planning Department, used a map to show the new eight pushcart locations. We now have approximately 30 sites all in the Central Business District. At some future date, staff will come back to the Commission with some minor changes to the ordinance. The application for the hot dog cart in Pritchard Park will expire on June 30 and staff does not plan on renewing his application, due to the site being eliminated. The owner can appeal staff's determination.

Ms. Bernstein explained the reasons for staff's determination to eliminate that particular site.

Mr. William Cooley, owner of a hot dog cart in Pritchard Park, spoke in support of his present location in Pritchard Park in that he adds value to the site by being an ambassador to the sculpture and the park. He cleans up the area, talks with visitors and helps elderly people cross the street. He does plan to appeal staff's decision to eliminate that site. He will send his appeal to the City Manager; however, before doing that he hoped to get a support by the Downtown Commission for him to remain at that site.

Ms. Judy Swann said that the artist designed the sculpture at that particular location in Pritchard Park. From that point, some of the architectural elements of the downtown area are blocked by the hot dog cart's umbrella.

In response to Mr. Hazzard, Mr. Glines said that when Pritchard Park was designed they identified that corner as an art piece site. In the meantime, it was a suitable site for a pushcart. The Parks Department's focus and identification on the view has been the gateway coming in on Patton Avenue from the west. Mr. Morgan said that even if you reduce the size of the cart, they still have to have some way to shield it.

After viewing the site, Councilman Davis agreed with staff that that particular site needs to be eliminated.

Some Commission members felt it was more appropriate to see a piece of art entering the City than a pushcart.

Mr. Hazzard moved to support staff's elimination of the site 1-A and the addition of site 18. This motion was seconded by Mr. McDonough and carried unanimously.

#### **Nominating Committee Recommendations**

Mr. Sprouse said that Nominating Committee put forth two names for Chairman – Mr. Hazzard and Mr. McDonough. The person who receives the most votes will be Chair and the second will be Vice-Chair. Both noted they would be willing to serve.

Chairman Butner opened up the floor for additional nominations. Hearing none, he closed the nominations.

After each member wrote down their preference of Chairman, Planning staff tallied the votes and announced the new Chairman would be Mr. Hazzard, with Mr. McDonough serving as Vice-Chairman, effective at the next Commission meeting on July 8, 2011.

### **Adjournment**

Ms. Hecht moved to adjourn the meeting at 11:17 a.m. This motion was seconded by Mr. Greiner and carried unanimously.